

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8283 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

P O KANOTHI

Versus

STATE OF GUJARAT

Appearance:

MS MAHROOK KERRAVALA for Petitioner
Mr. VB Gharaniya, Asstt.GP for Respondents.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 15/07/97

ORAL JUDGEMENT

Petitioner, a former Government servant challenges the order dated 13th July, 1995 under which he has been dismissed from service pursuant to the

disciplinary proceedings. The petitioner joined the Government service as District Primary Education Officer some time in the year 1981. IN the month of November 1982, he undertook certain journeys on official duty. For the said journeys, the petitioner claimed travelling allowance by submitting vouchers for the same. For the very journeys undertaken by him, he once again claimed travelling allowance by voucher No. 796 submitted on 13th October, 1983. The petitioner also received amounts of travelling allowance. This irregularity was noticed during the course of audit and as a result, disciplinary proceeding was initiated against the petitioner. The inquiry officer submitted his report on 30th August, 1993. Considering the evidence, the inquiry officer held that the petitioner's claiming travelling allowance twice was proved. The defence of inadvertence pleaded by the petitioner has not been believed by the inquiry officer. Considering the report of the inquiry officer and after affording opportunity to show cause why he should not be punished, the impugned order was made on 13th July, 1995. Learned advocate Mr. Brahmbhatt has appeared for the petitioner and has submitted that the inquiry initiated against the petitioner is vitiated on account of undue delay. He also alleges discrimination inasmuch as several officers committed such irregularities are let free on their depositing the amount of such unauthorized claim and the petitioner ought to have been given the same treatment. Mr. Brahmbhatt has also submitted that at the most, it was an inadvertence on the part of the petitioner for which the petitioner could not have been visited with the dire consequence of dismissal from service.

2. It may be noted that Mr. Brahmbhatt has not been able to even allege any irregularity and/or any lapse of procedure in the disciplinary proceedings. The question is whether the petitioner's act of delinquency can be said to be a mere lapse. I cannot agree with the contention of Mr. Brahmbhatt that it was a mere lapse or inadvertence on the part of the delinquent. The Inquiry Officer, after appreciating the evidence, has not believed the petitioner's plea of inadvertence. Further, the incident in question happened within a short time and that too within less than two years from the petitioner's entering Government service. The High Court exercising its discretionary jurisdiction of judicial review would not endeavour to reappraise the evidence and substitute the findings recorded by the Inquiry Officer by its own. Such an act of dishonesty cannot be viewed lightly and

that too on the part of a Class-I Officer of the Government. The inquiry cannot be said to be vitiated on account of delay. The whole enquiry depended upon the Travelling Allowance claimed by the petitioner. Thus, the prosecution had relied upon the contemporary documentary evidence. Even if there were any delay, the same would not adversely affect the defence of the petitioner. It is not even alleged that the petitioner's defence was adversely affected on account of such delay. So far as the allegation of discrimination is concerned, petitioner's allegation is vague and further, the principles of equality cannot be invoked in such matters. Petitioner's claiming the amount of travelling allowance twice has been established. Moreover, the petitioner has refunded the said amount only after the irregularity was noticed by the auditors. In that view of the matter, I do not consider that the petitioner could have been visited with a lighter punishment. Even if the petitioner could have been visited with the lighter punishment, this Court would not interfere with the discretion exercised by the Government after following due procedure and after considering the relevant material. I do not find any merits in this petition. Petition is, therefore, dismissed. Rule is discharged. There shall be no order as to costs.

*Vyas